

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AFSHIN MONSEFI, Individually And On Behalf
of All Others Similarly Situated,

Plaintiff,

VS.

ORION ENERGY SYSTEMS, INC., NEAL R. VERFUERTH, DANIEL J. WAIBEL, THOMAS A. QUADRACCI, MICHAEL J. POTTS, DIANA PROPPER de CALLEJON, JAMES R. CACKLEY, ECKHART G. GROHMANN, PATRICK J. TROTTER, THOMAS WEISEL PARTNERS, LLC, CANACCORD ADAMS, INC., and PACIFIC GROWTH EQUITIES, LCC,

Defendants.

DOCKET NUMBER: 08-cv-01328

HON. RICHARD J. SULLIVAN

(Caption continued on the following page)

**DECLARATION OF KIM E. MILLER IN SUPPORT OF THE MOTION OF WALTER
MILBRATH TO CONSOLIDATE RELATED ACTIONS; TO BE APPOINTED LEAD
PLAINTIFF; AND TO APPROVE PROPOSED LEAD PLAINTIFF'S CHOICE OF
COUNSEL**

HON. RICHARD J. SULLIVAN

I, Kim E. Miller, hereby declare as follows:

1. I am member of the law firm of Kahn Gauthier Swick, LLC ("KGS").
2. I submit this Declaration, together with the attached exhibits, in support of the Motion of Walter Milbrath, to appoint Mr. Milbrath ("Movant") to serve as Lead Plaintiff on behalf of the Class and to approve Movant's choice of KGS as Lead Counsel. I am fully familiar with the facts set forth herein.
3. Movant seeks appointment as Lead Plaintiff pursuant to Section 27(a)(3)(B) of the Securities Act of 1933 (the "Securities Act") in the above-captioned action (the "Action").
4. Attached hereto as Exhibit A is a true and correct copy of the sworn shareholder certification of Walter Milbrath, along with a summary loss chart.
5. Attached hereto as Exhibit B is a true and correct copy of the press release published on February 11, 2008, on *Prime Newswire*, a well-known, national business-oriented publication, announcing the pendency of the lawsuit commenced against defendants herein.
7. Attached hereto as Exhibit C is a true and correct copy of the firm resume of KGS.

I declare under penalty of perjury under the laws of the state of New York that the foregoing facts are true and correct. Executed this 11th day of April, 2008, at New York, New York.

/s/ Kim E. Miller

Kim E. Miller

CERTIFICATION IN SUPPORT OF APPLICATION FOR LEAD PLAINTIFF

Walter S. Milbrath (name) ("plaintiff") declares, as to the claims asserted under the federal securities law, that:

1. Plaintiff has fully reviewed the facts of the complaint(s) filed in this action alleging violations of the securities laws and plaintiff is willing to serve as a lead plaintiff in this case and all other related cases that may be consolidated with it.
2. Plaintiff did not purchase securities of Orion Energy Systems, Inc. at the direction of counsel or in order to participate in a private action under the federal securities laws.
3. Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.
4. During the Class Period, plaintiff has executed transactions in the securities of Orion Energy Systems, Inc. as follows. See Attached Schedule.
5. In the last three years, plaintiff has not sought to serve as a representative party on behalf of a class in an action filed under the federal securities laws, except as indicated herein.
6. Plaintiff will not accept payment for serving as a lead plaintiff beyond its pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: March 26, 2008

Walter S. Milbrath

Plaintiff

Walter Milbrath

DATE	# SHARES BOUGHT	PRICE
1/15/2008	1000	\$18.00
1/24/2008	1877	\$15.00
1/25/2008	123	\$15.00
TOTAL BOUGHT:	3000	

WALTER MILBRATH
Loss Chart--Orion Energy Systems, Inc.

Walter Milbrath

DATE	# SHARES BOUGHT	PRICE	COST
1/15/2008	1000	\$18.00	\$18,000.00
1/24/2008	1877	\$15.00	\$28,155.00
1/25/2008	123	\$15.00	\$1,845.00
TOTAL BOUGHT:	3000		\$48,000.00
TOTAL HELD:	3000	\$9.00	\$27,000.00
		TOTAL LOSS:	\$21,000.00

Closing Price on
2/11/08 applied for
shares held: \$9.00

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Press Release

Source: Roy L. Jacobs, Esq.

Roy Jacobs & Associates Files Class Action Lawsuit On Behalf of Purchasers of Orion Energy Systems, Inc. Securities -- OESX

Monday February 11, 2:37 pm ET

NEW YORK, Feb. 11, 2008 (PRIME NEWSWIRE) -- Roy Jacobs & Associates announces that it has commenced a Class Action lawsuit in the United States District Court for the Southern District of New York on behalf of a class (the "Class") of all persons who purchased or acquired the common shares of Orion Energy Systems, Inc. ("Orion" or the "Company") (NasdaqGM: [OESX](#) - [News](#)) in the Initial Public Offering ("IPO") on December 18, 2007 or in the open market from December 18, 2007 through February 6, 2008 (the "Class Period").

For further information, please contact Roy L. Jacobs, Esq. toll-free at 1-888-884-4490 or by e-mail to rjacobs@jacobsclasslaw.com. You may also sign up at our website at <http://www.jacobsclasslaw.com>.

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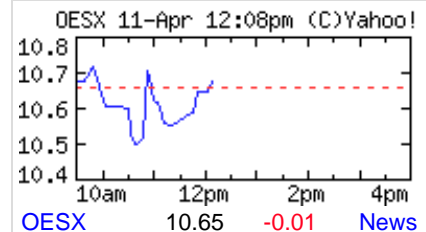
With respect to the IPO, Orion realized over \$78 million in proceeds, while Chief Executive Officer Neal R. Verfuert ("Verfuert") and family sold 600,000 shares for proceeds of approximately \$7 million. On February 6, 2008, just weeks after its IPO,

Orion revealed news concerning the Company which completely surprised analysts and investors, and caused the stock to drop approximately 43%, to a price of \$8.51 per share.

Orion is a manufacturer of efficient lighting and energy systems to businesses. The Prospectus for its IPO described a Company that was quickly growing revenues from existing product lines, and briefly described product line extensions. After the close of trading on February 6, 2008, Orion revealed that revenues in its current fiscal quarter would decline as the Company took aggressive measures to promote a "new business model," a change in focus that is alleged not to have been adequately disclosed or described in the IPO Prospectus. During the February 6, 2008 conference call, Orion executives, including Verfuert, appeared unable to explain to the satisfaction of securities analysts this surprising news about the business model change on the heels of the IPO, or its impact on revenues.

The complaint charges Orion, certain of its officers and directors and the underwriters who sponsored the IPO with violation of the federal securities laws by issuing a Registration Statement and Prospectus in connection with the IPO which was materially false or misleading due to omissions. The law generally imposes strict liability on defendants responsible for a materially false Registration Statement and Prospectus, including for purchases made in the open market after the IPO; no fraud need be proved to recover.

If you purchased Orion shares during the Class Period, December 18, 2007 through February 6, 2008, you

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- [Orion Energy Systems, Inc. Announces Retention of Skadden, Arps Law Firm as Defense Counsel in Purported Class Action Lawsuits](#) - PrimeNewsWire (10:34 am)
- [Attention Investors: Klafter & Olsen, LLP Reminds Investors That Only Seven Days Remain Until the April 11, 2008 Deadline to Request Lead Plaintiff Status](#) - PR Newswire (Fri Apr 4)
- [Trane - Global Leader in Air Conditioning Solutions - Deploys Orion Energy Systems Technology At Georgia Production Facility to Reduce Energy Consumption and Improve Light Levels](#) - PrimeNewsWire (Thu Apr 3)
- [Orion Energy Systems EVP Michael Potts to Speak At University of Wisconsin-Madison's Nelson Institute](#) - PrimeNewsWire (Wed Apr 2)

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- By industry: [Diversified Electronics](#)

may qualify to serve as Lead Plaintiff on behalf of the Class. All motions for appointment as Lead Plaintiff must be filed by April 11, 2008. If you wish to discuss this action or have any questions concerning this notice or your rights with respect to this matter, please contact Roy L. Jacobs. Mr. Jacobs will personally speak with you at no cost or obligation.

You may also join this action by visiting our website at <http://www.jacobsclasslaw.com>.

More information on this and other class actions can be found on the Class Action Newsline at <http://www.primenewswire.com/ca>.

Contact:

Roy Jacobs & Associates
Roy L. Jacobs, Esq.
1-888-884-4490
rjacobs@jacobsclasslaw.com
www.jacobsclasslaw.com

Source: Roy L. Jacobs, Esq.

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Kahn Gauthier Swick, LLC (“KGS”) (www.kgscounsel.com) is a law firm with offices in New Orleans and New York City. KGS focuses predominantly on class action litigation, in the areas of securities and consumer fraud, shareholder derivative and other complex litigation. KGS was formed in 2000 as a partnership between established class action attorneys. Since its inception KGS has recovered tens of millions of dollars for its clients.

KGS’s lawyers have significant experience litigating complex securities cases. Among other cases the firm is involved in, KGS has been appointed to leadership roles in the following securities class action and derivative litigations:

<i>Bodisen Biotech, Inc.</i> <i>Co-Lead Counsel</i>	<i>S.D.N.Y.</i>
<i>Gaming Partners</i> <i>Co-Lead Counsel</i>	<i>D. Nev.</i>
<i>In re Alott Communications Ltd. Securities Litigation</i> <i>Co-Lead Counsel</i>	<i>S.D.N.Y.</i>
<i>In re BigBand Networks, Inc Securities Litigation</i> <i>Co-Lead Counsel</i>	<i>C.D. Cal.</i>
<i>In re Optionable, Inc. Securities Litigation</i> <i>Lead Counsel</i>	<i>S.D.N.Y.</i>
<i>In re Pegasus Wireless Corp. Securities Litigation</i> <i>Lead Counsel</i>	<i>S.D. Fla.</i>
<i>In re Proquest Company Shareholder Derivative Litigation</i> <i>Co-Lead Counsel</i>	<i>E.D.Mich.</i>
<i>In re U.S. Auto Parts Networks, Inc. Securities Litigation</i> <i>Lead Counsel</i>	<i>C.D. Cal.</i>
<i>In re Witness Systems Inc. Securities Litigation</i> <i>Co-Lead Counsel</i>	<i>N.D. Ga.</i>

In re Xethanol Corporation Securities Litigation
Lead Counsel

S.D.N.Y.

In re Xinhua Finance Media, Ltd. Securities Litigation
Co-Lead Counsel

S.D.N.Y.

Pixelplus Co. Ltd.
Co-Lead Counsel

S.D.N.Y.

Terayon Comm. Systems Inc.
Co-Lead Counsel

N.D. Cal.

Whitney Information Network
Lead Counsel

M.D. Fla.

LAWYERS

Partners

Lewis S. Kahn

Lewis Kahn serves as the managing partner of KGS. Along with the representation of thousands of plaintiffs in mass tort cases and thousands of wronged investors in class actions throughout the United States, Mr. Kahn has been appointed to various leadership positions in federal class action litigation. Among other appointments, Mr. Kahn served as a member of the Plaintiffs' Steering Committee in MDL 1481, *In re Meridia Products Liability Litigation*, appointed by Judge James S. Gwin in the United States District Court for the Northern District of Ohio, Eastern District.

Mr. Kahn is often turned to by the media for expert commentary in the field of class action litigation. KGS has been profiled in the *New York Times*, *Washington Post*, *Boston Globe*, and many other media outlets. Mr. Kahn holds a Bachelor's degree from New York University and received a Juris Doctor from Tulane Law School in 1994. He has been a member in good standing of the Louisiana State Bar Association since 1995, and is a member of the Federal Bars for the Eastern, Middle and Western Districts of Louisiana.

Kim E. Miller

Kim E. Miller is a partner of Kahn Gauthier Swick, LLC, who specializes in securities, consumer, and commercial litigation. Prior to joining KGS in 2006, Ms. Miller was a partner at one of the nation's leading plaintiff class action firms. Ms. Miller also spent two years as a securities litigator on the defense side while at Gray Cary Ware & Friedenrich LLP in Palo Alto, California.

Over the course of her career, Ms. Miller has represented tens of thousands of wronged investors and consumers in class actions filed throughout the country. Among other cases, Ms. Miller has worked on more than 25 cases involving allegations of improper directed brokerage arrangements and excessive charges in mutual fund cases brought pursuant to the 1934 Securities Exchange Act and/or the Investment Company Act of 1940. Ms. Miller was also involved in the mutual funds late trading/market timing litigation.

Ms. Miller has been involved in a variety of cases in which large settlements were reached, including:

Settlement value of \$127.5 million *Spahn v. Edward D. Jones & Co., L.P.*, 04-cv-00086-HEA (E.D. Mo.)

\$110 Million Recovery. *In re StarLink Corn Products Liability Litigation*, MDL No. 1403 (N.D. Ill.)

\$100 Million Recovery. *In re American Express Financial Advisors, Inc. Sec. Litig.*, 1:04-cv-01773-DAB (S.D.N.Y.)

Ms. Miller was also a member of the trial team that obtained a federal jury verdict in favor of plaintiffs in a case involving the aiding and abetting of a mortgage company's fraudulent lending practices. *Austin v. Lehman Commercial Paper*, No. 04-55942 (DOC)(C.D. Cal.).

Ms. Miller graduated with honors from Stanford University in 1992 with a double major in English and Psychology. She earned her Juris Doctor degree from Cornell Law School, *cum*

laude, in 1995. While at Cornell, Ms. Miller was the Co-Chair of the Women's Law Symposium, Bench Brief Editor of the Moot Court Board, and a member of the Board of Editors of the Cornell Journal of Law & Public Policy. She is admitted to practice in the States of California and New York and before the United States District Courts for the Southern and Eastern Districts of New York and the Northern, Southern, and Central Districts of California. Her *pro bono* work includes representing families of 9/11 victims at *In re September 11 Victim Compensation Fund* hearings. Ms. Miller has also served as a fundraiser for the New York Legal Aid Society.

Kevin L. Oufnac

Kevin Oufnac joined Kahn Gauthier Swick, LLC in 2006. Prior to becoming a partner in KGS, Mr. Oufnac spent many years litigating cases throughout the United States with several of the nation's most recognized law firms, including Ness, Motley, Loadholt, Richardson, & Poole, PA; Richardson, Patrick, Westbrook & Brickman, LLC; and Motley Rice, LLC. In addition to individual cases, some of the litigations in which Mr. Oufnac has participated include *In re Community Bank of Northern Virginia and Guaranty National Bank of Tallahassee Second Mortgage Loan Litigation*, No. 03-0425 (W.D. Pa.) (which resulted in a settlement of \$33 million to the class members), and *Dundon v. U.S. Bank*, No. 01-408 (S.D. Ill.) (which resulted in a settlement of \$26 million to the class members).

Mr. Oufnac received his Juris Doctor in 1995 from the Loyola University School of Law, New Orleans. He is a member of the Louisiana State Bar Association, the South Carolina State Bar Association, and the Association of Trial Lawyers of America. Mr. Oufnac has also been admitted to the United States Court of Appeals for the Fourth Circuit and the United States District Courts for the Eastern District of Michigan, the Eastern District of Louisiana, and the District of South Carolina.

Michael A. Swick

Michael A. Swick heads KGS's Securities Litigation Group. Mr. Swick began his career in the mid 1990's working at several of the nation's leading securities class action law firms.

Over the past decade, Mr. Swick has played a significant role in investigating corporate fraud, initiating litigations, and drafting amended complaints in cases involving the Securities Act of 1933 and the Securities Exchange Act of 1934.

Mr. Swick received a Juris Doctor from Tulane Law School in 1994. Mr. Swick received a Masters of Political Philosophy from Columbia University in 1989 and a B.A. in Philosophy and Political Science from State University of New York at Albany in 1988. Mr. Swick was admitted to the State Bar of New York in 1996 and is a member of the Federal Bar for the Southern District of New York.

Of Counsel

Charles C. Foti, Jr.

Charles C. Foti, Jr. served as the Attorney General for the state of Louisiana from 2004-2008, after serving for 30 years as one of the most innovative law enforcement officials in the United States as Orleans Parish Criminal Sheriff. Throughout his career, General Foti has remained committed to public service.

As Attorney General for the state of Louisiana, General Foti's achievements include:

** Recovered over \$24 million for Louisiana consumers in consumer fraud matters, \$8 million in anti-trust litigation, \$9.1 million for state employees through Office of Group Benefits, over \$2 million for auto complaints, over \$33 million in Medicaid Fraud.*

** Investigated and apprehended numerous contractor fraud criminals in the wake of the worst natural disaster in United States history, Hurricane Katrina.*

** Louisiana Internet Crimes Against Children Task Force doubled the number of arrests for crime against children.*

In his tenure as Orleans Parish Criminal Sheriff, General Foti oversaw the enormous expansion of the parish jail, growing from 800 prisoners in 1973 to more than 7,000 currently.

As the prison expanded, so did the need for education and rehabilitation skills for prisoners. As Sheriff, General Foti started the first reading and GED programs, work release programs, drug treatment programs and the nation's first boot camp at the local level, all to prepare prisoners for a future without crime. Administratively, General Foti managed a multi-million dollar budget and a complex organization of more than 1,400 employees.

General Foti has for many years been an advocate for the elderly. As Sheriff, he and a small army of volunteers provided Thanksgiving meals for senior citizens in the New Orleans area who were alone or couldn't afford a proper holiday feast. He started a back to work program for senior citizens that helps people over the age of 55 get back into the workforce.

General Foti received his Juris Doctor degree from Loyola University Law School in 1965, after serving his country in the United States Army from 1955 through 1958.

Glen Woods

Glen Woods joined Kahn Gauthier Swick, LLC as Of Counsel in 2006. Mr. Woods has tried over two hundred business and tort cases in Louisiana state and federal courts. Mr. Woods achieved a \$346 million verdict in 1997 in a breach of contract case against Entergy and a \$55 million verdict against ADP for its involvement in the New Orleans Fairgrounds fire years earlier. Mr. Woods began his legal career in 1985 as an Assistant District Attorney to Harry Connick Sr. and was appointed Special Prosecutor responsible for capital homicides. Mr. Woods is admitted to practice in all state courts in the State of Louisiana, the United States District Court for the Eastern District of Louisiana, and the United States Court of Appeals for the Fifth Circuit. Mr. Woods received his Juris Doctor from Southern University in 1984 and received a Bachelor of Arts in Sociology from the University of Southwestern Louisiana in 1979.

Associates

Paul S. Balanon

Paul Balanon's post-admission experience includes commercial litigation in such areas as marine insurance, contractual indemnity, products liability, toxic torts, regulatory and administrative law, Defense Base Act matters, and environmental law. In addition, he has handled immigration and nationality cases (including investment-based and treaty visas), contract drafting and transactional matters, and international trade issues.

Mr. Balanon received a B.A. cum laude in Political Science with a specialization in International Relations from UCLA (1999), a J.D. from American University (2003), and a Master of Laws in Admiralty with distinction from Tulane University Law School (2004).

While taking a full-time course of law study at the Washington College of Law at American University, Mr. Balanon worked for Judge David S. Tatel (U.S. Court of Appeals for the D.C. Circuit) and for the Washington Lawyers Committee. He was also a member of the Moot Court Honor Society, competed in the Delaware corporations moot court, and served as a student attorney for American University's legal clinic. To pursue more intensive studies in one of his areas of interest—shipping—Mr. Balanon enrolled as a Henry F. Stiles Scholar at Tulane Law School where he was a member of the Tulane Maritime Law Journal, which published his case note. He is the recipient of the Edward A. Dodd Prize for graduating first in the class in his year.

Mr. Balanon is admitted to practice in the State of Louisiana; the Eastern, Middle, and Western Districts of Louisiana; the U.S. Bankruptcy Court for the Eastern District of Louisiana; the U.S. Fifth Circuit; the State of Maryland; and Washington, D.C.

Sarah Catherine Boone

Sarah Catherine Boone holds a Bachelor of Arts in Philosophy from the University of Southern California and a Master of Fine Arts in Writing from the Master of Professional

Writing Program at USC. She received her Juris Doctor from Tulane Law School and was admitted to practice law in the State of Montana in 2007. She is a member of the Montana State Bar Association and she has been admitted to the United States District Court for the District of Montana. She is also a member of the American Bar Association and the Tulane Inns of Court.

Melissa Ryan Clark

Melissa Ryan Clark received her Juris Doctor from Tulane Law School in 2007. While at Tulane, Ms. Clark was president of her graduating class and of the Business Law Society, a chairperson for the Moot Court Board, and a Senior Fellow for Legal Research & Writing. In Fall 2006, Ms. Clark attended University of California – Berkeley where she received high honors in Securities & Class Action Litigation and was a Visiting Contributor to the *California Law Review*. She received her Bachelors of Science degree in International Affairs from Florida State University in 2004.

Ms. Clark's legal work experience includes clerking at the San Francisco District Attorney's Office and externing for the Honorable Chief Judge Jerry Brown in the United States Bankruptcy Court, Eastern District of Louisiana and the Honorable Jay C. Zainey in the Eastern District of Louisiana. She is a member of the New York State Bar Association, the American Bar Association, and the American Inns of Courts. Ms. Clark was admitted to the New York Bar in 2008.

Catherine R. Gauthier

Catherine R. Gauthier holds a Bachelor of Arts degree from the University of Louisiana at Lafayette, having graduated *magna cum laude* in 2000. She received a Juris Doctor from Loyola University School of Law, New Orleans and was admitted to practice law in the State of Louisiana in 2005. She is a member of the Louisiana State Bar Association, the American Bar

Association, and the American Association of Trial Lawyers.

George S. Mentz

George Mentz is licensed to practice law in Louisiana and the Federal Courts of the EDLA and is a member of the Tax, Trusts & Estates & International Law Sections of the Bar. Mr. Mentz is chiefly a consultant and professor in the areas of ethics, consumer and victims rights, international law, business law, and financial law. Mr. Mentz has recently been featured or quoted in the Wall Street Journal, Financial Times Asia, China Daily, The Arab Times, The Hindu National (India), and The El Norte Mexico Newspapers. Mr. Mentz has written and published in multiple venues around the world in Radio, TV, magazines, web-casts, and journals and has published over 22 books and training manuals.

Professor Mentz serves on several boards and advisory committees in the US, Europe, and Asia. Mr. Mentz has a JD, MBA, certified financial consultant credential and financial planner license. Mr. Mentz has provided specialized consulting over the years as to valuation and quantum damages and has testified and been accepted as an expert in NASD securities arbitration hearings. Mr. Mentz was recently appointed to the Institutional Advisory Board of the Global Finance Forum in Switzerland, the ERISA Fiduciary Guild Advisory Board, and the AML Anti Money Laundering Committee for ICA USA, and was recently re-elected to the Financial Training and Ethics Board for AAFM Worldwide for 2007. Prof. Mentz has trained thousands of people in the areas of law, finance, ethics, tax, corporate governance, investments, and wealth management, and has taught over 100 law, business, and ethics courses at the graduate and undergraduate level over the last ten years.

Mr. Mentz earned his Juris Doctor from Loyola University School of Law, New Orleans. Mr. Mentz was Chairman and Faculty Advisor for the Tax and Estate Planning Law Review at

Loyola University. Further, Mr. Mentz holds an MBA in International Business and Financial Planning from Loyola, as well as a BA with a focus on International Politics.